

### **REMARKS**

The October 6, 2008 Action finally rejected all claims pending in the application. Applicant filed a timely Notice of Appeal on January 6, 2009. Examiner issued an Advisory Action on February 6, 2009. Applicant submits this Amendment and Response with an accompanying RCE for the Examiner's consideration.

This Amendment and Response amends claim 1 and requests the Examiner to reconsider the final rejections.

### **Claim Rejections –35 USC§102**

Claims 1-3, 7 and 9 stand rejected under 35 U.S.C. §102(e) as being anticipated by Russell et al., U.S. Publication No. 2002/0049679 published on April 25, 2002. For the reasons stated herein, Applicant respectfully traverses these rejections.

In general, Russell discloses a system for viewing digital content on a user network-enabled device by enabling a license. A user contacts a main website with the user network-enabled device and views the content available (e.g., digital movies). The user may select and download the movie to the user network-enabled device but it is not viewable until the user obtains a license. Thus, the user requests a license for a specific movie. Information is gathered to generate the license and may include desired rental model, an expiration date for the rental model, and information that identifies the user network-enabled device. Based on the information, a license is generated and then transferred to a protected database on the requesting user network-enabled device. Before the movie will play, the media player and security technology residing on the device examines the license to verify its validity. If the verification conditions are satisfied, the license is enabled and the user will be able to view the movie. (See Russell Summary of Disclosure, i.e., [0010] – [0014])

Applicant discloses and claims *a virtual warehouse website having a storage comprising a plurality of intangible software components, each of said components specifically selected for storage because each of said component is compatible for operating with said target hardware device.* The virtual warehouse is a personal inventory of intangible software components selected specifically for the client and the client's hardware device. The client accesses the warehouse and is able to view the

personal inventory (e.g., Applicant's Figure 9). At such time as the client is ready to create a license for the target hardware device, the client simply selects from the personal inventory of software components and a license generator creates the license. The generated software license for the target device is stored in the virtual warehouse. Again at a potentially later time, the client or the client's representative, may access the virtual warehouse and transfer the software license to a programming workstation for use in the target device.

In contrast, Russell does not have a virtual warehouse containing intangible software components each of said components specifically selected for storage because each of said component is for operating with said target hardware device. Rather, Russell discloses a main website of all the content (e.g., movies) that are available, not simply the ones that are specifically selected to be compatible with a certain target device. Applicant's virtual warehouse is specific to the client and to the client's hardware device.

The Examiner incorrectly believes that Applicant's virtual warehouse website is akin to the "protected database" or "PD" disclosed by Russell. The protected database is a storage located on the user network-enabled device and houses the license for the specific content. (See Russell [0011] and Figures 3 and 4) The Examiner further states that Applicant's target hardware device is akin to the "user network-enabled device" disclosed by Russell. Thus, the Examiner is incorrectly stating that the virtual warehouse website is within or on the target hardware device. Applicant's virtual warehouse website storage is not located on the target hardware device nor do Applicant's claim recite this.

Further in contrast, Russell requires that the particular user network-enabled device communicate directly with the main website to receive the downloaded license. (See e.g., Russell [0011] "The license is then transferred to a protected database on the requesting user network-enabled device." And [0050] "...the user will be required to connect to the main website again at a later time using that particular UND [user network-enabled device] and transfer the purchased license to that UND.")

Applicant's claim recites that a "programming workstation" receives the software site license on behalf of the target device. Thus, the target device is not required to

communicate directly with the virtual warehouse website, but rather a separate device does this, i.e., the programming workstation.

The Examiner states that Russell discloses a programming workstation and points to a media player for support. While a media player may include a programming workstation if taken in the broad sense of the words and out of context with Applicant's specification. However, the claims must be interpreted in light of Applicant's specification. The Examiner is directed to Applicant's paragraphs [0036] which clearly defines a programming workstation. Moreover, the Examiner is again improperly combining claim elements. Russell discloses a media player as a possible type of user network-enabled device. Thus, the Examiner is incorrectly stating that Applicant's claimed target hardware device and programming workstation are the same element. They are not the same and the claims now recite that the programming workstation in communication with said target hardware device but acting as a separate entity from said target hardware device.

The Examiner points to Russell paragraph [0031] for support of the virtual warehouse as recited by Applicant. Further, the Examiner points to Russell paragraphs [0045] and [0047] for support of a software site license being stored in the virtual warehouse storage for later use. Applicant submits that nowhere in the recited paragraphs of Russell (or anywhere else in Russell) does Russell disclose that the license is generated from the stored software components for the target hardware device and stored in a virtual warehouse storage for later use.

Accordingly, Applicant submits that Russell fails to teach, suggest or disclose all of the elements of Applicant's claims. Thus, Applicant requests the withdrawal of the Section 102 rejections to claims 1-3, 7 and 9.

### **Claim Rejections –35 USC§103**

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Russell, and claims 4 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Russell in view of Stefik et al., U.S. Patent No. 7,209,902 issued on April 24, 2007. For the reasons stated herein, Applicant respectfully traverses these rejections.

With respect to claim 6, Applicant submits that Russell fails to teach each and

every element of claim 1, for which claim 6 depends. Accordingly, Applicant submits that claim 6 is patentable over Russell.

With respect to claims 4 and 5, the Examiner cites Stefik to fill in the deficiencies over Russell of these dependent claims. However, as pointed out above, Russell fails to teach each and every element of Applicant's claims as recited. Similarly, Stefik fails to teach a virtual warehouse website having a plurality of intangible software components specifically selected to be compatible with a target hardware device. Thus, Applicant submits that either alone or in combination, Russell and Stefik fail to teach, suggest or disclose Applicant's claims 4 and 5.

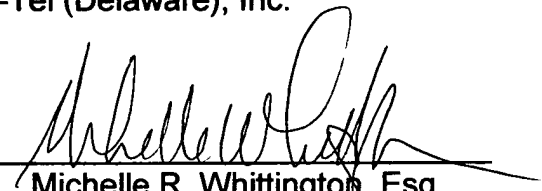
Accordingly, Applicant requests the withdrawal of the Section 103 rejections to claims 4, 5 and 6.

**CONCLUSION**

In view of the foregoing, Applicant requests consideration of the enclosed remarks, entry of amendments, and withdrawal of the Section 102 and 103 rejections. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact the undersigned at the Examiner's convenience. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
Inter-Tel (Delaware), Inc.

Date: April 6, 2009

By:   
Michelle R. Whittington, Esq.  
Corporate IP Counsel  
Reg. No. 43,844

**INTER-TEL (DELAWARE), INC.**  
**A Mitel Company**  
7300 W. Boston St.  
Chandler, AZ 85226  
Direct: (480) 961-9000 x21352  
Facsimile: (480) 961-8073  
Email: michelle\_whittington@mitel.com